

STATE OF COLORADO)
)
COUNTY OF MESA) SS.
)
CITY OF GRAND JUNCTION)

The City Council of the City of Grand Junction, in the County of Mesa and State of Colorado, met in a duly called, open regular session pursuant to due notice and in full conformity with law and the ordinances and rules of the City Council, at the City Hall, 250 North Fifth Street, Grand Junction, Colorado, being the regular meeting place of the City Council, on Wednesday, October 6, 1993, at 7:30 p.m. Upon roll call, the following were found to be present:

Present:

Mayor:	Reford C. Theobold
Mayor ProTem:	R. T. Mantlo
Councilmembers:	Linda Afman
	James Baughman
	William Bessinger
	Ron Maupin
	Dan Rosenthal

Absent: None

There were also present:

City Clerk:	Stephanie Nye
City Attorney:	Daniel Wilson
City Manager:	Mark Achen

Thereupon an Ordinance was introduced. The Ordinance was read by title (copies having been made available in advance) or, at City Council's discretion, in full, and is as follows:

ORDINANCE NO. 2708E

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF THE CITY OF GRAND JUNCTION, COLORADO, INDUSTRIAL DEVELOPMENT REVENUE REFUNDING BONDS, SERIES 1993 (DAYTON-HUDSON COMPANY PROJECT), IN THE AGGREGATE PRINCIPAL AMOUNT OF \$5,500,000 TO FINANCE A REFUNDING PROJECT; RATIFYING CERTAIN ACTION HERETOFORE TAKEN; AUTHORIZING THE EXECUTION AND DELIVERY BY THE CITY OF A LOAN AGREEMENT, INDENTURE OF TRUST, BOND PURCHASE AGREEMENT, SUCH BONDS, AND CLOSING DOCUMENTS IN CONNECTION THEREWITH; MAKING DETERMINATIONS AS TO THE SUFFICIENCY OF REVENUES AND AS TO OTHER MATTERS RELATED TO THE PROJECT; REPEALING ACTION HERETOFORE TAKEN IN CONFLICT HEREWITH; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Grand Junction, Colorado (the "City") is a legally and regularly created, established, organized and existing municipal corporation and political subdivision under the laws of the State of Colorado; and

WHEREAS, the legislature of the State of Colorado, in the County and Municipality Development Revenue Bond Act, Title 29, Article 3, Colorado Revised Statutes, as amended (the "Act") has found and declared it to be a public purpose for municipalities to promote industry and develop trade or other economic activity by inducing profit or non-profit corporations, federal governmental offices, hospitals, and agricultural, manufacturing, industrial, commercial, or business enterprises to locate, expand, or remain in this State, to mitigate the serious threat of extensive unemployment in parts of this State, to secure and maintain a balanced and stable economy in all parts of this State, and to further the use of its agricultural products or natural resources; and

WHEREAS, in furtherance of the foregoing purposes, the legislature has authorized municipalities to issue revenue bonds under the Act for the purpose of defraying the cost of financing, acquiring, improving, and equipping any "project" including any land, building, or other improvement and all real or personal properties, whether or not in existence, suitable or used for or in connection with commercial enterprises, including, without limitation, enterprises engaged in storing, warehousing, distributing, selling or transporting any products of agriculture, industry, commerce, manufacturing or business; to enter into a "financing agreement" with the user of the project for the purpose of providing revenues to pay the bonds so authorized; and to secure the payment of such bonds as provided in the Act; and

WHEREAS, pursuant to the Act, the City has previously issued its Industrial Development Revenue Bonds (Dayton-Hudson Company Project) Series 1980 (the "1980 Bonds") in the aggregate principal amount of \$5,500,000; and

WHEREAS, also pursuant to the authority of the Act, it has been proposed that the City issue its refunding revenue bonds in an amount sufficient to defray a portion of the cost of refunding the 1980 Bonds on November 1, 1993 (the "Refunding Project"); and

WHEREAS, the proceeds of the 1980 Bonds were used by Dayton-Hudson Company, a Minnesota corporation (the "Company"), to acquire, improve and equip certain real and personal properties used as a retail sales facility and related facilities (the "Project"); and

WHEREAS, the existence of the Project has promoted the sound economic growth of the State of Colorado and the City, has provided increased opportunities for employment for residents of the City and surrounding area and has furthered the public purposes set forth herein; and

WHEREAS, the Project is located in the City limits of the City; and

WHEREAS, the Project constitutes a "project" as defined in Section 29-3-103(10) of the Act; and

WHEREAS, accordingly, the City has determined that it is advisable and in the best interests of the City to issue, sell and deliver its Industrial Development Revenue Refunding Bonds, Series 1993 (Dayton-Hudson Company Project) in the aggregate principal amount of \$5,500,000 (the "Bonds") to provide moneys to provide financing to the Company for the Refunding Project; and

WHEREAS, in order to provide such financing, the City will make a loan from the proceeds of the Bonds to the Company pursuant to a Loan Agreement dated as of October 15, 1993 (the "Agreement"), between the City and the Company, and the Company will continue to operate and maintain the facilities and equipment refinanced by the Refunding Project in accordance with the requirements of the Act; and

WHEREAS, the Bonds will be secured by (i) a pledge of the Agreement and (ii) a pledge of the revenues and receipts derived by the City pursuant to the Agreement; and

WHEREAS, the Bonds will be issued pursuant an Indenture of Trust dated as October 15, 1993 (the "Indenture") between the City and First Trust National Association, St. Paul, Minnesota, as trustee; and

WHEREAS, the Council has determined that a special emergency exists because the Refunding Project must be accomplished on or before November 1, 1993 and the Company has agreed, in connection with the Refunding Project, to pay for certain improvements to a sewer line running under or near the Project and such improvements will help to preserve the public peace, health or safety.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION:

Section 1. All action (not inconsistent with the provisions of this ordinance) heretofore taken by the City Council and the officers of the City directed toward the financing of the Refunding Project, and the issuance and sale of the Bonds therefor is hereby ratified, approved and confirmed.

Section 2. Subject to compliance with the provisions of Section 6, the City shall finance the Refunding Project, subject to the terms of the Agreement and the Indenture by the issuance, sale and delivery of the Bonds.

Section 3. To defray the cost of such financing, subject to compliance with the provisions of Section 6 hereof, there is hereby authorized and created an issue of industrial development

revenue refunding bonds designated as the "City of Grand Junction, Colorado, Industrial Development Revenue Refunding Bonds (Dayton-Hudson Company Project) Series 1993," in the aggregate principal amount of \$5,500,000, issuable as fully registered bonds in the denominations of \$5,000 or any integral multiple thereof, dated as of October 15, 1993 and maturing May 1, 2003 in the amount of \$5,500,000 and subject to mandatory sinking fund payments, if any, in each of the years to be designated in the Indenture. The amount of the Bonds to be paid pursuant to mandatory sinking fund, if any, and the interest rate thereon shall be as specified in the Indenture and the City's signature on such document shall evidence its acceptance thereof. Such amounts, maturity and interest rate shall be added to the Indenture before the City's final execution of it.

The Bonds shall be payable, shall be subject to redemption prior to maturity and shall be in substantially the forms as provided in the Indenture. The Bonds shall be sold pursuant to public sale or private placement, and the Mayor is hereby authorized to enter into a bond purchase agreement or similar document evidencing the City's willingness to sell the bonds (a "Bond Purchase Agreement") so long as the terms of the Bonds to be sold pursuant to the Bond Purchase Agreement are in compliance with the restrictions of this ordinance. The maximum net effective interest rate on the Bonds is hereby determined to be 8%. The final net effective interest rate on the Bonds shall not exceed such rate.

Section 4. The following determinations and findings are hereby made in accordance with Sections 29-3-113, 29-3-114 and 29-3-120 of the Act.

(a) The maximum amount necessary in each year to pay the principal of and the interest on the Bonds is as follows:

<u>Annual Period to and Including November 1</u>	<u>Interest for such Period</u>	<u>Principal to be Retired in such Period</u>	<u>Annual Debt Service Requirement</u>
1994	\$458,331	-0-	\$458,331
1995	\$440,000	-0-	\$440,000
1996	\$440,000	-0-	\$440,000
1997	\$440,000	-0-	\$440,000
1998	\$440,000	-0-	\$440,000
1999	\$440,000	-0-	\$440,000
2000	\$440,000	-0-	\$440,000
2001	\$440,000	-0-	\$440,000
2002	\$440,000	-0-	\$440,000
2003	\$440,000	\$5,500,000	\$5,940,000

These amounts assume all of the Bonds are marketed at a rate of 8% per annum. It is not expected that the maximum amount of interest shown in the table will need to be paid on the Bonds.

(b) The terms under which the Project is to be refinanced provide that the Company shall maintain the Project and carry all proper insurance with respect thereto.

(c) The revenues payable under the financing documents with respect to the Bonds and the Project are sufficient to pay, in addition to all other requirements of such financing documents and this ordinance, all sums referred to in paragraphs (a) and (b) of this Section.

(d) The revenues payable under the financing documents with respect to the Bonds and the Project are sufficient to pay, in addition to all other requirements of such financing documents and this ordinance, all taxes, if any, payable pursuant to Section 29-3-120 of the Act.

Section 5. The City's execution of the Agreement, the Indenture and the Bond Purchase Agreement hereby are approved and the City shall enter into the Agreement, the Indenture and the Bond Purchase Agreement in the forms of such documents as approved by the City Finance Director and/or City Attorney who are hereby delegated the authority to approve such documents after the date of this ordinance so long as such documents meet the requirements of this ordinance. The Mayor of the City is hereby authorized and directed to execute and deliver the Agreement, the Indenture and the Bond Purchase Agreement and the City Clerk is hereby authorized and directed to affix the City seal to and to attest the Agreement, the Indenture and the Bond Purchase Agreement, such signatures to be conclusive evidence of the City's approval of the final terms of such documents.

Section 6. In connection with the Refunding Project, the Company has agreed to pay for certain improvements to be made to a City sewer line which runs on or near the Project, at a cost of approximately \$30,000. The City's authorization of the Bonds and approval of the execution of the Agreement, the Bonds, the Bond Purchase Agreement and the Indenture are subject to the Company and the City reaching an agreement, before the issuance of the Bonds, as to the specific improvements to be financed by the Company and the other specifics of the Company's obligations. The City Attorney is hereby delegated the authority to negotiate the terms of the agreement with the Company, such agreement to be evidenced either in the Agreement or a separate agreement between the City and the Company, to be signed on or before the date of issuance of the Bonds.

Section 7. The City makes no representation or warranty as to, and has no responsibility for, the accuracy or completeness of the information contained in any offering document prepared in connection with offering the Bonds.

Section 8. The forms, terms and provisions of the Bonds in the forms contained in the Indenture, shall be approved by the Finance Director or the City Attorney, who are hereby authorized to approve the Bonds; and the Mayor of the City is hereby authorized and directed to execute the Bonds and the City Clerk is hereby authorized and directed to affix the seal of the City to the Bonds and to attest the Bonds. The signatures of the Mayor and the City Clerk on the Bonds and the seal of the City on the Bonds shall be affixed manually or by facsimile and shall conclusively demonstrate the City's approval of the final terms of the Bonds.

Section 9. Subject to the provisions of Section 6, the Mayor is hereby authorized and directed to execute and deliver to the Trustee the written order of the City for the authentication and delivery of the Bonds by the Trustee, in accordance with the Indenture.

Section 10. First Trust National Association, St. Paul, Minnesota, is hereby appointed as Trustee, paying agent and bond registrar under the Indenture.

Section 11. The officers of the City shall take all action in conformity with the Act necessary or reasonably required to effectuate the issuance of the Bonds and shall take all action in conformity with the Act necessary or desirable to finance the cost of the Refunding Project and for carrying out, giving effect to and consummating the transactions contemplated by this ordinance and the Agreement, the Indenture and the Bond Purchase Agreement, including, without limitation, the execution and delivery of any closing documents to be delivered in connection with the sale and delivery of the Bonds.

Section 12. The cost of financing the Refunding Project, including incidental issuing expenses, will only be paid out of the proceeds of the Bonds or other moneys provided by the Company and none of the Bonds will be the general obligation of the City, nor shall any of the Bonds, including interest thereon, constitute the debt or indebtedness of the City within the meaning of the Constitution or statutes of the State of Colorado or the City's home rule charter, nor shall anything contained in this ordinance or in the Bonds, the Agreement, the Indenture, the Bond Purchase Agreement, or any other instrument give rise to a pecuniary liability of the City, any "multiple fiscal year direct or indirect debt or other financial obligation whatsoever", or a charge upon the general credit or taxing powers of the City, nor shall the breach of any agreement contained in this ordinance, the Bonds, or the Agreement, the Indenture, or the Bond Purchase Agreement impose any pecuniary liability on the City or a charge upon the general credit or taxing powers of the City, the City having no power to pay out of its general fund, or otherwise contribute any part of the costs of financing the Refunding Project, nor power to operate the Project as a business or in any manner, nor shall the City condemn any land or other property for the Project nor contribute any land or other property to the Project. Nothing contained in this ordinance or the Agreement, the Indenture or the Bond Purchase Agreement shall give rise to any personal or pecuniary liability of any elected official, officer, director, employee, agent, or attorney of the City.

Section 13. After any of the Bonds are issued, this ordinance shall be and remain irrevocable until the Bonds and the interest thereon shall have been fully paid, cancelled and discharged.

Section 14. If any section, paragraph, clause or provision of this ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this ordinance.

Section 15. All bylaws, orders, resolutions and ordinances, or parts hereof, inconsistent herewith and with the documents hereby approved, are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed as reviving any bylaw, order, resolution or ordinance, or part thereof.

Section 16. The City Clerk is hereby directed to have this Ordinance published in full in the Daily Sentinel, a newspaper published in the City, on or before October 9, 1993.

Section 17. Council hereby declares that a special emergency exists because the Refunding Project must be effected on or before November 1, 1993, and the Company has agreed, in connection with the Refunding Project, to make the improvements described in Section 6 hereof. The improvements are for the preservation of the public peace, health or safety and will likely not be completed unless the Refunding Project is effected. This Ordinance, immediately on its final passage, shall be recorded in the City book of ordinances kept for that purpose, authenticated by the signatures of the Mayor and the City Clerk, and shall be published in full in the Daily Sentinel, a legal newspaper published in the City within three days. This ordinance shall take effect immediately upon its passage.

ADOPTED AND APPROVED AS AN EMERGENCY ORDINANCE on October 6, 1993.

Mayor

(SEAL)

Attest: _____
City Clerk

Thereupon, it was duly moved and seconded that said ordinance be finally passed as an emergency, and be published in full within three days.

The question being upon the adoption of said motion, the roll was called with the following results:

Those Voting Aye:	Reford C. Theobold R. T. Mantlo Linda Afman James Baughman William Bessinger Ron Maupin Dan Rosenthal
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Those voting Nay:	None
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Those Absent:	None
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All of the members of the City Council having voted in favor of the motion, the presiding officer thereupon declared the motion carried, and the ordinance ordered published as aforesaid.

The City Council then considered and disposed of other matters unrelated to the proposed bonds.

There being no further business to come before the City Council, on motion duly made, seconded and unanimously carried, the City Council adjourned.

City Clerk

(SEAL)

STATE OF COLORADO)
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COUNTY OF MESA) SS.
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CITY OF GRAND JUNCTION)

I, Stephanie Nye, the duly qualified and acting City Clerk of the City of Grand Junction, Mesa County, Colorado, do hereby certify:

1. The foregoing pages numbered 1 to 9, inclusive, are a true, perfect and complete copy of the record of the proceedings of the City Council of the City of Grand Junction had and taken at a lawful regular meeting of the City Council held at the City Hall, 250 North Fifth Street, in the City on Wednesday, October 6, 1993, at the hour of 7:30 p.m. as recorded in the official book of records of the proceedings of the City Council kept in my office, so far as the minutes relate to an ordinance (consisting of pages 2 through 9), a copy of which is therein set forth; the copy of the ordinance contained in the minutes is a full, true and correct copy of the original of the ordinance, as considered by the City Council at that meeting and acted upon as stated in the foregoing proceedings.

2. The proceedings were duly had and taken as therein shown, the meeting therein shown was duly held, and the persons therein named were present at the meeting and voted as therein shown.

WITNESS my hand and the seal of the City affixed this October 6, 1993.

City Clerk

(SEAL)

EXHIBIT A

(Attach Affidavit of Publication of Ordinance in full on
or before October 9, 1993)

